REMARKS

This application was examined with claims 1 through 16.
All claims were rejected. Claims 1, 5, 9 and 13 are amended.
Claims 1 through 16 remain in the application.

Applicant requests reconsideration and reexamination of
the above-identified application in view of the amendments made
to the specification and claims. The following remarks state
Applicant's bases for making this request and are organized
according to the Examiner's Action by paragraph number.

Examiner's Action, Paragraph 2

The Examiner objects to claims 1 and 2. Applicants
believe that the amendments to claim 1 overcome the Examiner's
objections thereto. Applicants also assume that the Examiner
meant to refer to claim 5, rather than claim 2. If that
assumption is correct, Applicants believe that the amendments
to claim 5 overcome the Examiner's objection.

Examiner's Action, Paragraphs 3 and 4

The Examiner rejects the claims on the nonstatutory double
patenting rejection arguing that claims 1 through 4 and 8
through 12 are unpatentable over claims 1 through 8 of U.S.
Patent Application Serial No. 10/601,359 (now U.S. Patent No.
7,099,875), and over claims 1 through 28 of U.S. Patent
Application Serial No. 10/073,708 (now U.S. Patent No.
7,031,966) and over claims 1 through 28 of U.S. Patent
6,363,385.

Applicants respectfully traverse this rejection and request the Examiner to withdraw the requirement.

The two cited applications (now U.S. Patent Nos. 7,031,966 and 7,099,875) are continuing applications of the application that matured into U.S. Patent 6,363,385. U.S. Patent 6,363,385 was granted on March 26, 2002, more than one year prior to Applicants' November 10, 2003 filing date. Consequently, it is a reference under 35 U.S.C. §102. In fact the Examiner rejects the certain claims as being anticipated by U.S. Patent No. 6,363,385. Applicant believes, however, that the claims, as amended, define an invention that is patentably distinct from U.S. Patent 6,363,385. Consequently, Applicants submit that if the claims are patentable over U.S. Patent 6,363,385, they relate to a distinct invention and should not be subject to a Terminal Disclaimer.

Examiner's Action, Paragraphs 5 and 6

The Examiner rejects claims 1, 2, 5, 6, 9, 10, 13 and 14 under 35 U.S.C. §102(b) as being anticipated by U.S Patent No. 6,363,385 to Kedem et al (hereinafter "Kedem"). The Examiner argues that Kedem includes each and every limitation of those claims.

Applicants respectfully traverse this rejection with specific reference to the claims as amended.

Each of independent claims 1, 4, 9 and 13 defines a method or apparatus in which a copying operation is carried out in response to the receipt of a first command and a second

command. Kedem discloses a method and apparatus that responds to a single command.

Each of independent claims 1, 4, 9 and 13 defines a data structure that includes addresses for source and destination logical devices and operation data and status elements. In the specifically disclosed embodiment, the data structure is disclosed in FIG. 3 with a destination entry 71, a source entry 72, an operation entry 74 and an operation status entry 75. Kedem discloses a more complex data structure in FIG. 3 in U.S. Patent No. 6,363,385. That data structure does not contain anything corresponding to the operation data and status elements.

Each of independent claims 1, 4, 9 and 13 defines a method or apparatus in which the copying can not occur until such time as the second command is received and the establishment phase has been completed, as determined by the content of the operation data and status elements. Kedem neither discloses nor suggests such a test.

These distinctions are important. As stated in the Background of the Invention, and particularly in the Description of Related Art, Kedem introduces unacceptable overhead when the application is applied to open systems and other systems. Specifically:

> More recently, however, open systems have become popular particularly with advances in networking and hardware capabilities. Open systems generally make copies on a file-by-file basis where one logical volume is involved. However, they do not have commands with the capability of handling data on a track-by-track basis. In recent times, the need for making single or multiple copies essentially

independently of normal processing has become more desirable even in open systems. Moreover, it has become desirable to transfer entire logical volumes, even to copy a subset, because in open systems logical volume transfers can actually occur more quickly. This feature exists because it is not necessary to incur the overhead of finding data blocks associated with a single file which can be at any arbitrary position in a logical volume.

It was found that the overhead involved with the method described in United States Letters Patent No. 6,363,385 introduced unacceptable delays in the process. Moreover data in an open system logical volume is at any arbitrary location within a system. Thus is there no way to identify the extent of the data to be copied other than at a logical volume level.

Application, Page 4, lines 2 through 22.

It is the foregoing differences that contribute to minimize the overhead issues and that enable the efficient copying of files in both open and mainframe systems. Consequently Applicants respectfully submit that each of claims 1, 2, 5, 6, 9, 10, 13 and 14 are novel and that each, taken in its entirety, defines an invention that Kedem does not suggest and that would not have been obvious to a person of ordinary skill in the art at the time Applicants made the claimed invention.

Examiner's Action - Paragraphs 7 through 9

The Examiner rejects claims 3, 4, 7, 8, 11, 12, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over U.S Patent No. 6,363,385 to Kedem et al (hereinafter "Kedem) and further in view of U.S. Patent No. 6,757,797 to Kaiya et al. (hereinafter "Kaiya"). The Examiner also presumes that the

subject matter of the various claims was commonly owned at the time any inventions were made.

With respect to common ownership, the Examiner's presumption is correct. The application was assigned to EMC Corporation.

Applicants respectfully traverse the rejection with respect to non-patentability.

Kaiya discloses a method from copying data from an area in one logical disk or device to an area in another logical disk or device in response to a copy command. As Applicants understand it, Kaiya does not disclose the use of first and second commands, the use of a data structures and the operations of the claims that are not disclosed by Kedem. Applicants respectfully submit that the combination of Kedem and Kaiya is not proper because there is nothing in either reference that would suggest to a person of ordinary skill in the art that the copy process in one application should be substituted for the other. Even if the combination were proper, each of claims 3, 4, 7, 8, 11, 12, 15 and 16 defines an invention that is patentable over the combination of Kedem and Kaiya. Further, if the independent claims are patentable, each of claims 3, 4, 7, 8, 11, 12, 15 and 16 should be allowable as claims of varying scope to which Applicants are entitled.

Summary

Applicants are amending the specification to correct certain grammatical errors and the drawings to correct some minor errors that were uncovered during the preparation of this

response. Applicants are also submitting a Petition to Extend Time to November 17, 2006.

Applicants have amended certain claims to point out with greater clarity and particularity what Applicants regard as their invention. Therefore, Applicants respectfully request the Examiner to reconsider her rejections and to allow the application with claims 1 through 16 as amended.

If there are any questions, we urge the Examiner to call us collect.

Respectfully Submitted,

/George A Herbster/

George A. Herbster
Reg. No. 24,002
40 Beach Street
Manchester, MA 01944

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: YEDIDIA ATZMONY AND HAIM KOPYLOVITZ AND DAVID I
                LEVINSON AND HANA MORESHET AND DEANNE L. O'HARE
                AND PHILIP E. TAMER

Serial No.:   10/705,772

Filed: November 10, 2003

FOR: METHOD AND APPARATUS FOR MAKING INDEPENDENT DATA
                COPIES IN A DATA PROCESSING SYSTEM

EXAMINER: Kimberly M. Lovel

ART UNIT: 2167

                                        November 17, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

                AMENDMENT TO THE DRAWINGS

     Please amend Figs. 1 and 5 in the above-identified patent

application as follows:

     In FIG. 1:

          Delete "88" as the reference numeral for the

          controller in the host adapter 26 and substitute --

          86--;

     In FIG. 4:

          In block 95, delete "13" and substitute --3--; and

          In block 121, delete "6" and substitute --5--.

REMARKS

A copy of each amended drawing is attached with the changes annotated thereon. Applicant is submitting formal replacement drawings representing the originally filed drawings as amended.

If there are any questions, we urge the Examiner to call us collect.

Respectfully Submitted,

/George A Herbster/

GEORGE A. HERBSTER
Reg. No. 24,002
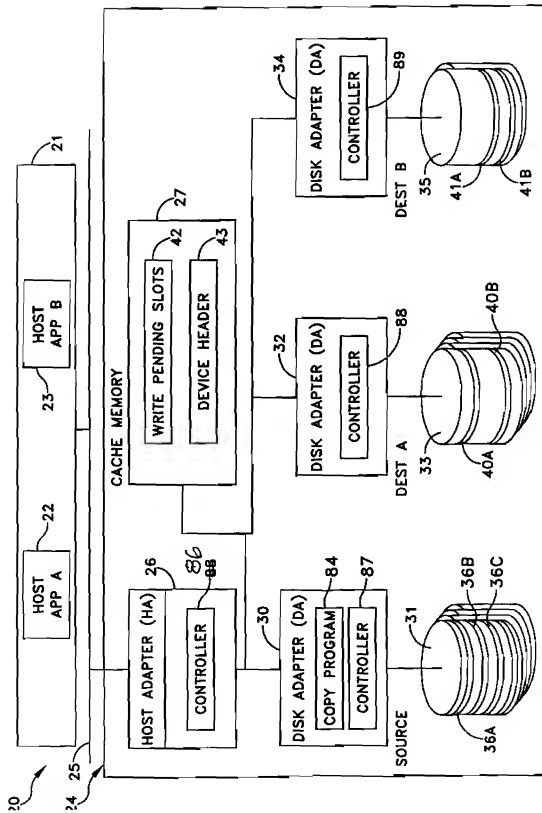40 Beach Street
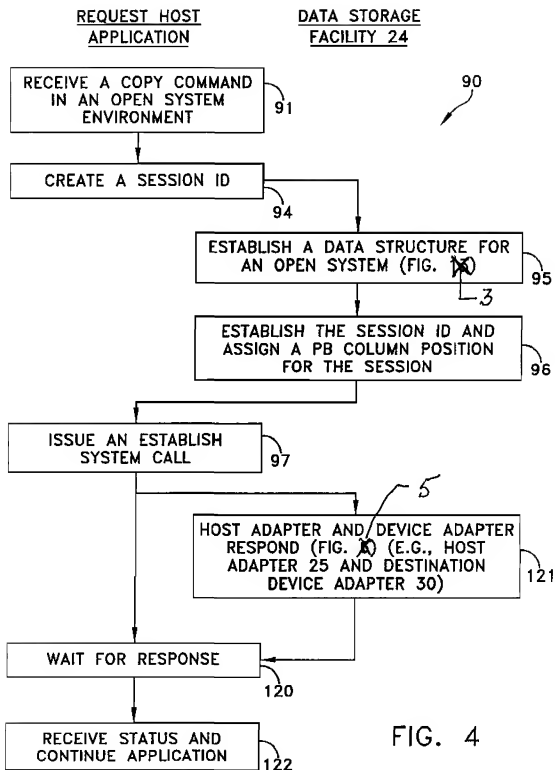Manchester, MA 01944
(978) 527-8111

FIG. 1

REQUEST HOST
APPLICATION

DATA STORAGE
FACILITY 24

90

RECEIVE A COPY COMMAND
IN AN OPEN SYSTEM
ENVIRONMENT
91

CREATE A SESSION ID
94

ESTABLISH A DATA STRUCTURE FOR
AN OPEN SYSTEM (FIG. X)
95
3

ESTABLISH THE SESSION ID AND
ASSIGN A PB COLUMN POSITION
FOR THE SESSION
96

ISSUE AN ESTABLISH
SYSTEM CALL
97

5

HOST ADAPTER AND DEVICE ADAPTER
RESPOND (FIG. X) (E.G., HOST
ADAPTER 25 AND DESTINATION
DEVICE ADAPTER 30)
121

WAIT FOR RESPONSE
120

RECEIVE STATUS AND
CONTINUE APPLICATION
122

FIG. 4